

## **REMARKS**

This is a reply to the Office Action mailed July 31, 2003, with a shortened statutory response period set to expire on October 31, 2003. The response and accompanying Request for Continued Examination are filed within the statutory period, namely October 31, 2003. The Commissioner is hereby authorized to charge any additional fees to Deposit Account number 02-1818.

Applicants respectfully request reconsideration and allowance of the pending claims in view of the Amendments and Remarks below.

### **1. Elections/Restrictions**

Attorney for Applicants wishes to thank Examiner Sandra Nolan for the courtesies extended during a telephone conversation on October 29, 2003. Examiner Nolan clarified the species restriction set forth in Paper No. 6. In response thereto, Applicants clarify the elections made in Paper No. 7. Applicants elect with traverse Group I, claims 1-18 drawn to two layer tubing. In addition, Applicants elect with traverse the following species.

(a) Applicants elect a first polyolefin composed of a polypropylene copolymer. Claims 1-18 read on this election.

(b) Applicants elect a second polyolefin composed of an ethylene copolymer. Claims 1-18 read on this election.

(c) Applicants elect a radio frequency susceptible polymer composed of a polyamide. Claims 1-18 read on this election.

(d) Applicants elect a dimer fatty acid polyamide as a type of polyamide used for the radio frequency susceptible layer. Claims 1-3 read on this election.

(e) Applicants elect a first thermoplastic elastomer composed of a styrene and hydrocarbon copolymer. Claims 1 and 6-10 read on this election.

(f) Applicants elect a first thermoplastic elastomer composed of a styrene and hydrocarbon block copolymer. Claims 1 and 7-10 read on this election.

(g) Applicants elect a first thermoplastic elastomer functionalized by a carboxylic acid derivative. Claims 1 and 9-10 read on this election.

(h) Applicants elect a second thermoplastic elastomer composed of a styrene and hydrocarbon copolymer. Claims 1 and 11-14 read on this election.

(i) Applicants elect a second thermoplastic elastomer composed of a styrene and hydrocarbon block copolymer. Claims 1 and 12-14 read on this election.

(j) Applicants elect a second thermoplastic elastomer composed of a styrene-ethylene-butene-styrene copolymer. Claims 1 and 13-14 read on this election.

(k) Applicants elect a second thermoplastic elastomer composed of styrene-ethylene-butene-styrene triblock copolymer. Claims 1 and 14 read on this election.

(l) Applicants elect a second polyolefin obtained using a single site catalyst. Claims 1 and 16 read on this election.

(m) Applicants elect a second thermoplastic elastomer having an additive composed of a high density polyethylene. Claims 1 and 17-18 read on this election.

Applicants object to the species elections set forth in ¶12(n)-(p) of Paper No. 6 as these species are drawn to claims 19-40 of non-elected Group II. If the Examiner determines that responsiveness is dictated by election of the species set forth in ¶12(n)-(p), Applicants provisionally elect with traverse the following.

(n) Applicants elect a first polyolefin composed of a propylene copolymerized with a monomer. Claims 19, 22 and 23 read on this election.

(o) Applicants elect a second polyolefin composed of an ethylene copolymerized with a monomer. Claims 19 and 24 read on this election.

(p) Applicants elect a third polyolefin composed of a propylene copolymerized with a monomer. Claims 19 and 25 read on this election.

## **2. Status of the Claims**

In view of the Elections set forth above, Applicants respectfully submit that claims 1-18 are pending in this application. Claims 19-111 drawn to non-elected Groups II-IV have been canceled. Claims 1, 7 and 12 have been amended. New claims 112-113 have been added. The amendments to claims 7 and 12 were made for clarity purposes and do not narrow the scope of the claims. Support for the amendments and new claims may be found in the present specification as follows:

claim 1, page 8 line 25 to page 9 line 2, page 9 lines 28-29 and

claims 112-113, page 3 lines 10-13.

### 3. Prior Art Rejections

Claims 1-5, 11, 13 and 15-16 were rejected under 35 U.S.C. § 103(a) as being obvious over International Patent Application No. WO 95/13918 to Rosenbaum et al. (*Rosenbaum*). Claims 12 and 14 were rejected under 35 U.S.C. § 103(a) as being obvious over *Rosenbaum* in view of U.S. Patent No. 6,004,636 to Nicola et al. (*Nicola*). Applicants respectfully traverse these rejections as *Rosenbaum* and *Nicola*, either alone or in combination, do not teach or suggest the subject matter of the claims for the reasons set forth below.

*Rosenbaum* fails to teach or suggest a multiple layered tubing with a second layer having a propylene-free thermoplastic elastomer as recited in claims 1-18. Rather, *Rosenbaum* discloses that the skin layer is composed of a polypropylene copolymer blended with styrene and hydrocarbon block copolymers. *Rosenbaum*, page 8 line 35 through page 9 line 3. As *Rosenbaum*'s second layer contains polypropylene, *Rosenbaum* actually teaches away from the recited polypropylene-free second layer.

*Nicola* does not teach or suggest a multilayered tubing as recited in the present claims. *Nicola* merely discloses a medical bag made from a single layer film, the single layer film containing a blend of a matrix polymer and a phase polymer. *Nicola*, col. 2 lines 27-46, claim 1. *Nicola* contains no disclosure whatsoever directed to a tubing having a first layer composed of a four component blend and a second layer composed of an elastomer as recited in claims 1-18. *Nicola* cannot teach that which it does not have, namely a second layer. In addition, *Nicola*'s polymer blend contains either polyethylene or polypropylene thereby teaching away from the recited polyethylene/polypropylene-free second layer.

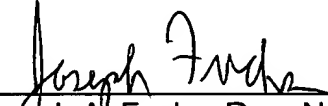
Even if motivation existed to combine *Nicola*'s single layer film with *Rosenbaum*'s multilayered structure, such a combination would teach away from claims 1-18 as each reference discloses a polypropylene or a polyethylene containing layer. Furthermore, neither *Rosenbaum* nor *Nicola* contain any disclosure remotely pertaining to a second layer having a solvent bonding additive as recited in claims 112-113. Present claims 1-18 and 112-113 are therefore novel in view of *Rosenbaum* and *Nicola*.

**CONCLUSION**

In view of the foregoing amendments and remarks, Applicants submit that claims 1-18 and 112-113 are in condition for allowance and respectfully request an indication of the same.

Respectfully submitted,  
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